

To: CN=Gregory Peck/OU=DC/O=USEPA/C=US@EPA[]
Cc: []
From: CN=Betsaida Alcantara/OU=DC/O=USEPA/C=US
Sent: Wed 9/16/2009 4:57:48 PM
Subject: Fw: Pebble mine

Ex. 5 - Deliberative

----- Forwarded by Betsaida Alcantara/DC/USEPA/US on 09/16/2009 12:57 PM -----

From: Bob Sussman/DC/USEPA/US
To: Betsaida Alcantara/DC/USEPA/US@EPA
Cc: Adora Andy/DC/USEPA/US@EPA, Seth Oster/DC/USEPA/US@EPA
Date: 09/16/2009 12:55 PM
Subject: re: Pebble mine

Ex. 5 - Deliberative

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

From: Betsaida Alcantara/DC/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Seth Oster/DC/USEPA/US@EPA, Adora Andy/DC/USEPA/US@EPA
Date: 09/16/2009 12:41 PM
Subject: re: Pebble mine

Ex. 5 - Deliberative

1. We were told that under Section 404(c) of the Clean Water Act, Congress gave EPA the ability to veto a Corps permit, should EPA determine the Corps made an improper decision. Under this authority, we were told EPA could also pre-emptively stop a project.

- does EPA indeed have the ability to veto a Corps permit or permits?
- does EPA have the ability to pre-emptively stop a project? How is that different from vetoing a permit?
- has this ever been done before? When? If so, did the permit(s) pertain to a mining project?
- what would constitute grounds to veto a Corps permit?

2. We were told that under NEPA, EPA reviews all EIS' to rate the project and the quality of the EIS document and that EPA could "encourage" a supplemental EIS if it gave the initial EIS an "adverse rating."

- does EPA have this ability to rate the EIS even if it is NOT the lead agency?
- will EPA be rating the quality of Pebble's EIS, if there is one?
- can EPA demand a supplemental EIS? Or just "encourage" one?

- what constitutes an "adverse rating"?
- is the supplemental EIS then done by the same agency who did the initial one (in this case, likely the Corps?)
- has EPA ever asked for a supplemental EIS? When? If so, did it pertain to a mining project?

Here are the links I propose sending to the reporter in answer to her questions:

<http://www.epa.gov/owow/wetlands/404c/>

<http://yosemite.epa.gov/R10/ECOCOMM.NSF/b9d67f6000e5b58888256e5900642421/e68df0446ae6dae b88256c3d006599fa!OpenDocument>